

2. Referral for Statutory Assessment

2.1 Routes for Referral

A child will be brought to the LEA's attention as possibly requiring an assessment through one of the following routes:

- referral by an educational psychologist on behalf of a Pre-School Liaison Group
- referral by an early years provider (those in receipt of financial assistance from the LEA and who are providers of "relevant nursery education" – effectively to four and five year olds – under section 329A of the Act
- referral by the child's headteacher, under section 329A of the Act
- a formal request for an assessment from a parent, under sections 329(1) or 328(2) of the Act
- referral by another LEA of a child who attends a school in that LEA but lives in Birmingham, or
- referral by another LEA who had started or were about to start the statutory assessment of a child who has now moved into the Birmingham area

All requests for assessment will be considered as quickly as possible.

2.2 Allocation of Case to a Named Principal Officer

Once a request is received the case is allocated to the Principal Officer for the school (if the child attends a Birmingham maintained school). For all other requests, the Office Manager allocates the case by rota to a Principal Officer.

The details of the case and the name of the Principal Officer are logged onto the database by an administrative assistant, who also makes up a Service casefile.

2.3 The LEA's Responsibility

Section 321 of the Act lays a general duty on the LEA to identify any child who has special educational needs, and where "it is necessary for the authority to determine the special educational provision which any learning difficulty he may have calls for."

The LEA will only assess those children for whom it is responsible. This is defined in the Act:

.....a local education authority are responsible for a child if he is in their area and -

- (a) he is a registered pupil at a maintained school,
- (b) education is provided for him at a school which is not a maintained school at the expense of the authority,
- (c) he does not come within paragraph (a) or (b) above but is a registered pupil at a school and has been brought to the authority's attention as having (or probably having) special educational needs, or
- (d) he is not a registered pupil, is not under the age of two years or over compulsory school age and has been brought to their attention as having (or probably having) special educational needs.

[Act 321(3) as amended by The School Standards and Framework Act 1998]

- 2.4 A statutory assessment of one of these children will only be undertaken if the LEA believes that the child has special educational needs and that it is necessary for them to determine the child's special educational provision themselves. In order to make this initial decision, the LEA will require evidence as to the nature and extent of the child's learning difficulties; and evidence of the actions taken to meet and overcome those difficulties. The exact evidence that the LEA will seek will vary according to the age of the child and the nature of his or her learning difficulties.

Subsequent paragraphs describe the specific evidence that must be provided by those requesting the assessment of a pre-school (early years) or a school-aged child.

The Referral of Early Years Children

The LEA's procedures are summarised in the following flowcharts, in Appendix D:

- 1. Request for Statutory Assessment. Early Years Referral by Educational Psychologist, and
- 2. Request for Statutory Assessment. Referral by Early Education Provider

- 2.5 This section covers the referral of children who are under the age of five years and who are not on the roll of a maintained nursery or school. Where a child is in such a nursery or school, even on a part-time basis, the referral for statutory assessment will be made by the headteacher.

2.6 Pre-School Liaison Groups

Pre-School Liaison Groups cover all areas of the City, and are composed of representatives drawn from all the services that might be appropriate for meeting the needs of pre-school children. These include: school medical officers, paediatricians, speech therapists, physiotherapists, occupational therapists, health visitors, social workers, educational psychologists, Portage workers, and teachers from the Visiting Teacher Service.

The purpose of these groups is to co-ordinate the actions taken by all the agencies that may be involved with an individual case. Such action may range from the direct intervention of one professional to a full multi-disciplinary assessment and intervention at a child development centre. The co-ordination role of these groups will ensure that there is speedy and effective communication across agencies. This, in turn, will ensure that the majority of children with difficulties have their needs met as early as possible, and without the need for a formal statutory assessment. Where a group feels that, despite the help of their services, a child's difficulties persist or have not been remedied sufficiently, the group may recommend that the educational psychologist requests a statutory assessment.

2.7 The Duty of the Health Authority or Trust

In cases where a District Health Authority or a National Health Service Trust form the opinion that a child under the age of 5 years has (or probably has) special educational needs:

The health authority or trust shall -

- (a) inform the child's parent of their opinion and of their duty under this section, and
- (b) after giving the parent an opportunity to discuss that opinion with an officer of the health authority or trust, bring it to the attention of the appropriate local education authority."

[Act, section 332(2)]

In Birmingham, the health authority or trust will fulfil this duty by bringing the child to the attention of the appropriate Pre-School Liaison Group, where the Educational Psychologist on the Group, acting on behalf of the LEA, will receive the information. It should be noted, however, that the child can only be brought to the attention of the Pre-school Group, with parental consent. In circumstances where the parents refuse their consent, the health authority or trust still have a duty to bring their opinion to the LEA. In such circumstances, the health authority or trust should write directly to the SEN Assessment Service, at the address given in section 1.9. In addition,

.....if the health authority or trust are of the opinion that a particular voluntary organisation is likely to be able to give the parent advice or assistance in connection with any special educational needs that the child may have, they shall inform the parent accordingly.

[Act, section 332(3)]

2.8 Early Years Providers

Section 329A of the Act confirms that certain providers of "relevant nursery education" have a right to request statutory assessment (but noting that children in a maintained nursery school are counted as school referrals). However, this right is limited only to those in receipt of financial assistance from the LEA.

Nursery education is defined in section 117 of the School Standards & Frameworks Act 1998 as "full-time or part-time education provided for children who have not reached compulsory school age". Moreover, this Act limits the LEA's current duty to those children aged 4-5 years.

In view of Birmingham's own city-wide nursery provision and reception provision for this age group, it is not anticipated that there will be many requests falling directly under this legal right.

Early education settings not in receipt of financial support or those providing nursery education for children aged 3 and under have no statutory right to request an assessment, However, they may still refer a child to the LEA.

2.9 **Criteria for Statutory Assessment**

As a result of on-going input at the early years stage some children may be identified whose needs are so complex that statutory procedures may be essential in order to maximise their opportunities. This will be particularly true for the small group of children whose needs are so great that it is predicted that they would be unable to cope at an ordinary mainstream school without additional help. Indeed, for some children, the needs may be so great that it is felt that the child will not cope at mainstream school at all, even with additional support. For these children, education in a special school may need to be considered.

In considering requests for statutory assessment, the LEA will require evidence of the nature and extent of the child's difficulties together with evidence that any strategy or programme implemented for the child in question has been continued for a reasonable period of time without sufficient success. Paragraph 7:13 of the Code lists the evidence that should be provided:

- The views of the parents recorded at Early Years Action and Early Years Action Plus
- The ascertainable views of the child
- Copies of IEPs at Early Years Action and Early Years Action Plus
- Evidence of progress over time
- Copies of advice, where provided, from health and social services
- Evidence of the involvement and views of professionals with relevant specialist knowledge and expertise outside the normal competence of the setting
- Evidence of the extent to which the school or setting has followed the advice provided by professionals with relevant specialist knowledge

In exceptional circumstances, where extreme difficulties have been picked up late, the LEA will proceed with a statutory assessment without the need for evidence of prior, on-going assessment and remediation.

Apart from exceptional circumstances, the LEA will only proceed with a statutory assessment if the individual case meets the criteria contained in the LEA's published document 'Birmingham Criteria for Statutory Assessment' and/or as defined within bands 4-6 of the CRISP assessment and provision criteria.

2.10 Procedure for Requesting Statutory Assessment from the LEA

Requests from early years providers will be in writing (although the LEA may consider the introduction of a standard form) and will provide the evidence listed in section 2.9. The request must come from the person or body of persons responsible for the management of the provision of that nursery education. The LEA is under a duty to make a decision on such a request within 6 weeks from the date of receipt [Regulation 12(3)].

Other than formal parental requests (see section 2.48 following) plus a very small number of formal requests from early education providers, all pre-school referrals for statutory assessment will be made by an LEA educational psychologist, using the appropriate LEA form (Form 1: 'Request for Statutory Assessment - Initiation by Educational Psychologist'). As noted in 2.5 earlier, where a child is on roll at a maintained school or nursery, the referral for formal assessment will be made by the headteacher. This applies to all children, including those below statutory school age.

Before submitting this form, the Psychological Service, on behalf of the LEA, must satisfy itself that adequate evidence has been collected, over time, to support the conclusion that the child does have complex difficulties and would be unable to cope in a mainstream school without additional special educational provision. The referral form must be countersigned by the area Senior or Principal Psychologist, to endorse the request for statutory assessment based on the evidence presented. Wherever possible, a CRISP assessment record should be attached to this form.

On completion, the form should be sent to the SEN Assessment Service who will, where appropriate, write to the child's parents indicating that the LEA propose to make an assessment of the child's educational needs.

In summary, the LEA's 'routine' procedure requires the following:

- Completion of Form 1 by an Educational Psychologist - countersigned by the area Principal or Senior Psychologist OR a written request from an appropriate early years provider

- The level of the child's difficulties should meet at least one of the specific criteria set out in the LEA's published criteria document or the child's difficulties fall within bands 4-6 of the CRISP assessment and provision criteria.
- On-going input before the referral, at Early Years Action and Early Years Action Plus, in order to deal with the identified difficulties. This may be provided by education, health, social services, and/or voluntary organisations. A minimum period of 3 months support is required at Early Years Action Plus, with two reviews, before making a request for a statutory assessment.
- Evidence must be provided that such on-going input has taken place e.g. by providing copies of IEPs and Reviews

2.11 Notice of a Proposal to make a Statutory Assessment

If the request for assessment has been made by a 'responsible body' (as defined in 2.8 above), the LEA is required to write to the parents (letter SEN2) advising them that the LEA propose to make an assessment. This formal 'notice' is issued under section 329A(3) of the Act - 'Review or assessment of educational needs at request of responsible body'

- 2.12 Copies of this letter will be sent to the Psychological Service, the early education provider, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), the Parent Partnership Service and to any other relevant agency who might be asked for advice should the assessment proceed. It will be made clear on this copy [as required by Regulation 6(3)], what help the LEA "are likely to request".

The Parent Partnership Service then send the parents their initial letter which lists the menu of services available. A copy of the SEN Information pack is sent to the parents if they request it.

- 2.13 Attached to this 'notice' will, as required, be information detailing:

- the procedure to be followed in making the assessment
- the name of the officer of the authority from whom further information may be obtained,
- the parent's right to make representations within 29 days
- the availability to the parent of advice and information on matters related to his child's special educational needs from the Parent Partnership Service, and

- of the possibility that their child may be called for an examination or assessment

[See sections 329A(3) of the Act]

The officer named will be the appropriate Principal Assessment Officer. A 'standard' proforma (Form 6) will be sent to parents on which they can write their views. A 'standard' proforma (Form 7) will also be supplied to record the child's views. If they prefer, the parents will be able to make their views known by telephone.

- 2.14 Following the SEN2 and the expiry of the minimum period of 29 days available for the receipt of parents' views, the LEA will decide whether or not to make an assessment. It should be noted that the LEA is legally obliged [Act 329A (4-5)] to wait until the 29 days has expired before making this decision. In order to reach their decision, the LEA will take into account any parental representations made to them, together with any further evidence submitted by the parents.

2.15 **The Role of the Moderating Group**

A moderating group, set up by the Authority, may sample these early years referrals in order to support the LEA in the consistent administration of their criteria for deciding when to make a statutory assessment.

In some cases, despite discussion, there may still be a conflict of opinion as to whether an individual case should be put forward for statutory assessment. In such a case, the Service should make this clear on the referral form sent in to the LEA. The case will then be discussed at a meeting of the Moderating (CRISP) Group, in order to help the LEA to reach a decision.

2.16 **Refusal to Assess**

Where the LEA decides to refuse a request for assessment made by an EP, the Principal Assessment Officer will issue a notice to the parents using letter XX1. As required by Reg. 12(1)(b) the parents will be advised of:

- the reasons for the decision; and
- the availability of advice and information from the Parent Partnership Service

- 2.17 Where a refusal follows a request from an early years provider the Principal Assessment Officer will write to the Head of SEN and the Parents, giving reasons for decision (XX2).

As required by the Act 329A(8-9) and detailed Reg. 12(4)(b) the parents will be advised of:

- the reasons for the decision;
- the availability of advice and information from the Parent Partnership Service;
- the availability to the parent of the LEA's dispute resolution arrangements;
- their right of appeal to the Tribunal against the decision not to assess;
- the time limit within which an appeal must be made to the Tribunal; and
- the fact that any dispute resolution arrangements cannot affect their right of appeal to the Tribunal.

Pupils in Maintained Schools or PRUs in Birmingham

This section covers the referral of pupils attending schools (or PRUs) maintained by Birmingham LEA.

2.18 Criteria for Statutory Assessment

The Code emphasises [Code 7:1] that the needs of the great majority of children who have special educational needs should be met effectively under the school-based stages, without the statutory involvement of the LEA. In a small number of cases, however, the LEA will need to decide whether to make a statutory assessment or not.

In deciding whether to make a statutory assessment, the critical question is whether there is convincing evidence that, despite the school, with the help of external specialists, taking relevant and purposeful action to meet the child's learning difficulties, those difficulties remain or have not been remedied sufficiently and may require the LEA to determine the child's special educational provision. LEAs will need to examine a wide range of evidence.

[Code 7:34]

In making a decision about whether to make a statutory assessment, the LEA will consider the general guidelines contained in paragraphs 7:35 – 7:67 of the Code. In addition, the LEA will consider an individual case against the specific criteria contained in the LEA's published document 'Birmingham Criteria for Statutory Assessment' and in the CRISP Assessment & Provision criteria. Apart from exceptional circumstances, the LEA will only proceed with a statutory assessment if the individual case meets the criteria contained in these documents.

2.19 LEA Procedure for Requesting Statutory Assessment

The referral procedure itself is summarised on a flowchart ("3. Request for statutory assessment - Referral by Headteacher"), in Appendix D of this document.

All schools recognise the importance of consulting parents, whether or not their children have special educational needs. It is particularly important, however, as noted in the Code (section 2:12) that "Parents should be fully involved in the discussion leading up to a school's decision to request a statutory assessment."

Other than formal parental requests (see section 2.48 following), all referrals for statutory assessment will be made by the headteacher of the pupil's

current school, using the appropriate LEA form (Form 2: 'Request for Statutory Assessment - Initiation by Headteacher').

Before making a request, the school is expected to have followed guidance set out in the SEN Handbook and the Code (chapters 5 & 6) to address the needs of the pupil at School Action and School Action Plus. In particular the school will have:

- Consulted the Educational Psychologist and other relevant external specialists, including, as appropriate, BSS, PSSS, VTS, Outreach or Tuition Service staff, at an early point in the school's concern about the progress of a pupil and sought specific guidance about the IEP, its monitoring arrangements and its review
- Worked with support services, using the CRISP materials to assess the profile of the pupil and adopted an assessment-through-teaching approach
- Identified the appropriate SEN arrangements from CRISP that the school should make for the pupil
- Made appropriate arrangements at CRISP Band 3 for all the pupil's needs identified as being at Band 3 or above, in addition to meeting any Band 2 or Band 1 needs
- Recorded how those arrangements have been made within IEPs and recorded the pupil's response to the arrangements through reviews to which parents and, as appropriate, pupils have been invited.
- Involved the pupil as far as possible at all stages in the assessment-through-teaching process
- Explained the school's intention to refer the child for statutory assessment to the parents/carers and sought their support
- Kept full records through IEPs and Stage Reviews in order to make such records available to those subsequently involved in the statutory assessment and to the Department if required for the purposes of verification, moderation or in the event of a SEN Tribunal.

2.20 In considering requests for statutory assessment, the LEA will require evidence of the nature and extent of the child's difficulties together with evidence that any strategy or programme implemented for the child in question has been continued for a reasonable period of time without sufficient success. Paragraph 7:13 of the Code lists the evidence that should be provided:

- The views of the parents recorded at School Action and School Action Plus
- The ascertainable views of the child
- Copies of IEPs at School Action and School Action Plus
- Evidence of progress over time
- Copies of advice, where provided, from health and social services
- Evidence of the involvement and views of professionals with relevant specialist knowledge and expertise outside the normal competence of the setting
- Evidence of the extent to which the school or setting has followed the advice provided by professionals with relevant specialist knowledge

In exceptional circumstances, where extreme difficulties have been picked up late, the LEA will proceed with a statutory assessment without the need for evidence of prior, on-going assessment and remediation.

- 2.21 The LEA wishes to consider all headteacher requests as quickly as possible, and fully endorses the view given in the Code, that:

If the LEA's support services and, in particular, the LEA's educational psychologist have already been involved assessing the child and reviewing provision, the LEA should be able to decide relatively quickly whether a statutory assessment is necessary.

[Code 5:65, 6:73]

The LEA has a legal duty under Regulation 12(3) to make a decision whether to assess or not, within 6 weeks from the date of receipt of the request.

- 2.22 The headteacher sends the completed Form 2 (including a recently completed CRISP record and any other necessary supporting evidence) to the SEN Assessment Service. The Principal Assessment Officer will, where appropriate, write to the pupil's parents indicating that the LEA propose to make an assessment of the child's special educational needs.

Where residential provision of any kind needs to be considered, the headteacher should clearly indicate this, so that the views of a qualified Social Worker can be sought.

2.23 In summary, the LEA's 'routine' procedure requires the following:

- The school's SENCO completes a CRISP form in consultation with the school's EP and other external specialists as appropriate
- The headteacher completes the standard referral form (Form 2)
- The school must have provided input at School Action. The LEA requires the school to send in written evidence that this has been done.
- The school must have completed School Action Plus, as described in the Code of Practice. The LEA requires that the school sends in written evidence that this has been done. Specifically, the school must send in copies of the IEPs used with the pupil, together with copies of the reviews held with the parents. A minimum period of 6 months support is required at School Action Plus (3 months for nursery schools), with two reviews, before making a request for a statutory assessment.
- The level of the child's learning difficulties should meet at least one of the specific criteria set out in the LEA's published criteria document and/or the child's assessed significant special needs should fall within bands 4-6 of CRISP.

Although these procedures are described as 'routine', it is important to stress that they are not essential in every case. In exceptional circumstances, the school may have decided to omit all, or part, of the school-based stages. There may also be cases, even after discussion, where the headteacher and the Support Services disagree over whether a pupil warrants a statutory assessment. In either event, it remains the responsibility of the headteacher for deciding whether to request a statutory assessment or not. However, such cases are not then seen by the LEA as 'routine'. Instead, they are described as non-routine 'exceptional' referrals. All such referrals may be passed to a Moderating Group, set up by the LEA.

2.24 Notice of a Proposal to make a Statutory Assessment

If the request for assessment has been made by a 'responsible body' (defined in section 329A(13) of the Act as the headteacher of the school or pupil referral unit), the LEA is required to write to the parents (letter SEN2) advising them that the LEA propose to make an assessment. This formal 'notice' is issued under section 329A(3) of the Act - 'Review or assessment of educational needs at request of responsible body'

- 2.25 Copies of this letter will be sent to the Psychological Service, the headteacher, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), the Parent Partnership Service and to any other relevant agency who might be asked for advice should the assessment proceed. It will be made clear on this

copy [as required by Regulation 6(3)], what help the LEA "are likely to request".

The Parent Partnership Service then send the parents their initial letter which lists the menu of services available. A copy of the SEN Information pack is sent to the parents if they request it.

2.26 Attached to this 'notice' will, as required, be information detailing:

- the procedure to be followed in making the assessment
- the name of the officer of the authority from whom further information may be obtained,
- the parent's right to make representations within 29 days
- the availability to the parent of advice and information on matters related to his child's special educational needs from the Parent Partnership Service, and
- of the possibility that their child may be called for an examination or assessment

[See sections 329A(3) of the Act]

The officer named will be the appropriate Principal Assessment Officer. A 'standard' proforma (Form 6) will be send to parents on which they can write their views. A 'standard' proforma (Form 7) will also be supplied to record the child's views. If they prefer, the parents will be able to make their views known by telephone.

2.27 Following the SEN2 and the expiry of the minimum period of 29 days available for the receipt of parents' views, the LEA will decide whether or not to make an assessment. It should be noted that the LEA is legally obliged [Act 329A (4-5)] to wait until the 29 days has expired before making this decision. In order to reach their decision, the LEA will take into account any parental representations made to them, together with any further evidence submitted by the parents.

2.28 **Refusal to Assess**

Where the LEA decide not to make an assessment, the Principal Assessment Officer will write to the Headteacher and the Parents, giving reasons for decision (SEN8A).

As required by the Act 329A(8-9) and detailed Reg. 12(4)(b) the parents will be advised of:

- the reasons for the decision;
- the availability of advice and information from the Parent Partnership Service;
- the availability to the parent of the LEA's dispute resolution arrangements;
- their right of appeal to the Tribunal against the decision not to assess;
- the time limit within which an appeal must be made to the Tribunal; and
- the fact that any dispute resolution arrangements cannot affect their right of appeal to the Tribunal.

2.29 Non-Routine ('Exceptional') Referral Procedure

In the great majority of cases, before any request is made to the LEA for a statutory assessment, the school will have assessed a child's learning difficulties and will have made special educational provision to meet the child's needs. However, in a very small minority of cases, children may demonstrate such significant difficulties that the school may consider it impossible or inappropriate to carry out in full their chosen assessment procedure.

[Code 7:30]

The LEA accepts that there will be exceptional occasions where a headteacher is unable to provide all the evidence normally required. It is difficult to be definitive about all the circumstances that could result in such an 'exceptional' request. However, the following situations are given as examples:

- a sudden change in a child's medical circumstances, causing a rapid and serious deterioration in the child's health or development
- a marked change in a pupil's learning, personality, or physical needs as a result of a serious accident
- a child moving into Birmingham from outside the authority, with clearly identifiable special needs
- a marked and serious deterioration in a child's emotional development

2.30 The headteacher sends the completed Form 2 (including CRISP record and any other necessary supporting evidence) to the SEN Assessment Service. The Principal Assessment Officer will, where appropriate, write to the pupil's

parents indicating that the LEA propose to make an assessment of the child's special educational needs.

Where residential provision of any kind needs to be considered, the headteacher should clearly indicate this, so that the views of a qualified Social Worker can be sought.

- 2.31 Although the evidence provided is likely to be less than that in the 'routine procedure, the LEA will need to give careful thought as to whether to proceed with such an assessment or not. In order to facilitate the making of the decision, the case may be discussed at a meeting of the LEA's Moderating Group. This will ensure that full consideration is given by the LEA to all those cases thought to require statutory assessment.

Where the LEA decide not to make an assessment, the Principal Assessment Officer will write to the Headteacher and the Parents, giving reasons for the decision (SEN8A). Parents will be advised in the letter of the availability of the Parent Partnership Service, of the LEA's conciliation arrangements and of their right of appeal to the SEN & Disability Tribunal.

2.32 **The Role of the Moderating Group**

The moderating group, set up by the Authority, may sample or discuss these school referrals in order to support the LEA in the consistent administration of their criteria for deciding when to make a statutory assessment.

In addition, in some cases, despite discussion, there may still be a conflict of opinion as to whether an individual case should be put forward for statutory assessment. In particular, this may arise in a situation where an appropriate specialist from the LEA's support services is of the opinion that a case does not meet the LEA's referral criteria. In such a case, the psychologist should make this clear on the referral form sent in to the LEA. The case may then be discussed at a meeting of the Moderating Group, in order to help the LEA to reach a decision.

Pupils in Independent Schools or Schools in other LEAs

2.33 Criteria for Statutory Assessment

The criteria for assessment will be the same for all school-aged pupils, regardless of the type of school attended. Thus, the criteria given in section 2.13 above will apply.

2.34 LEA Procedure for Requesting Statutory Assessment

The procedure will be broadly similar to that pertaining to pupils in Birmingham maintained schools, and described in section 2:18 following. Thus, other than formal parental requests (see section 2.48 following), all referrals for statutory assessment will be made by the headteacher of the pupil's current school, using an appropriate LEA form.

- 2.35 For pupils in schools maintained by other LEAs, Birmingham LEA will accept the routine documentation used by the local LEA concerned. Where, for whatever reason, this is not appropriate, the school will be asked to complete a standard Birmingham form. For pupils in independent schools not maintained by any LEA, Birmingham will require the completion of Form 4A ('Request for Statutory Assessment - Pupil in Independent School').

In line with paragraph 7:13 of the Code (as listed in section 2:20 above), whichever form is used it should provide the evidence that the headteacher is asked to supply in order for Birmingham LEA to consider the request for statutory assessment as quickly as possible. This includes evidence of the school's actions at School Action and School Action Plus. Where this evidence is not initially supplied, the headteacher may be asked to reconsider the provision made by the school at the school-based stages.

- 2.36 On completion, the form should be sent to the SEN Assessment Service. The Principal Assessment Officer will, where appropriate, write to the pupil's parents indicating that the LEA propose to make an assessment of the child's educational needs. Wherever possible, the LEA will encourage headteachers in school maintained by other LEAs to send their completed request forms and evidence to their local Special Needs Officer who, in turn, will forward it to Birmingham. It is hoped, by this means, that the local LEA will act as an initial challenge to ensure that the correct local procedures are followed.
- 2.37 The major difference between these schools and Birmingham maintained schools, is that they are not routinely visited by a Birmingham educational psychologist. This means that the LEA's routine consideration procedure may not be followed. As a result, requests from such schools may need to be considered by the LEA's Moderating Group.

2.38 Notice of a Proposal to make a Statutory Assessment

If the request for assessment has been made by a 'responsible body' (defined in section 329A(13) of the Act as the headteacher of the school or pupil referral unit), the LEA is required to write to the parents (letter SEN2) advising them that the LEA propose to make an assessment. This formal 'notice' is issued under section 329A(3) of the Act - 'Review or assessment of educational needs at request of responsible body'

2.39 Copies of this letter will be sent to the Psychological Service, the headteacher, the health authority, the local social services department, the Child Advisory Social Work Service (if residential provision is under consideration), the Parent Partnership Service and to any other relevant agency who might be asked for advice should the assessment proceed. It will be made clear on this copy [as required by Regulation 6(3)], what help the LEA "are likely to request".

The Parent Partnership Service then send the parents their initial letter which lists the menu of services available. A copy of the SEN Information pack is sent to the parents if they request it.

2.40 Attached to this 'notice' will, as required, be information detailing:

- the procedure to be followed in making the assessment
- the name of the officer of the authority from whom further information may be obtained,
- the parent's right to make representations within 29 days
- the availability to the parent of advice and information on matters related to his child's special educational needs from the Parent Partnership Service, and
- of the possibility that their child may be called for an examination or assessment

[See sections 329A(3) of the Act]

The officer named will be the appropriate Principal Assessment Officer. A 'standard' proforma (Form 6) will be send to parents on which they can write their views. A 'standard' proforma (Form 7) will also be supplied to record the child's views. If they prefer, the parents will be able to make their views known by telephone.

2.41 Following the SEN2 and the expiry of the minimum period of 29 days available for the receipt of parents' views, the LEA will decide whether or not to make an assessment. It should be noted that the LEA is legally obliged [Act 329A

(4-5)] to wait until the 29 days has expired before making this decision. In order to reach their decision, the LEA will take into account any parental representations made to them, together with any further evidence submitted by the parents.

2.42 Refusal to Assess

Where the LEA decide not to make an assessment, the Principal Assessment Officer will write to the Headteacher and the Parents, giving reasons for decision (SEN8A).

As required by the Act 329A(8-9) and detailed Reg. 12(4)(b) the parents will be advised of:

- the reasons for the decision;
- the availability of advice and information from the Parent Partnership Service;
- the availability to the parent of the LEA's dispute resolution arrangements;
- their right of appeal to the Tribunal against the decision not to assess;
- the time limit within which an appeal must be made to the Tribunal; and
- the fact that any dispute resolution arrangements cannot affect their right of appeal to the Tribunal.

2.43 The Role of the Moderating Group

The moderating group, set up by the Authority, may sample or discuss these school referrals in order to support the LEA in the consistent administration of their criteria for deciding when to make a statutory assessment.

The Referral of Pupils in Provision Otherwise Than At School

2.44 Introduction

School-age pupils educated at home, by parental choice, will not come under any headteacher. As a result, any request for a statutory assessment will be made directly by the parents. The LEA procedure will therefore be the same as that described in sections 2.48 following.

Other pupils of compulsory school age may be in "suitable full-time or part-time" provision made under section 19(1) of the Act ('Exceptional provision of education in pupil referral units or elsewhere'). Such provision includes units set up under the management of the Behaviour Support Service. It also includes pupils being educated in hospital schools or units. All of these 'schools' are maintained by the LEA and will have a 'headteacher'. The procedure below applies to pupils in all such provision.

- 2.45 Procedures for the identification and assessment of pupils with special educational needs also apply to pupils in a 'Pupil Referral Unit' (defined in section 19(2) of the Act). References to the headteacher in any procedure will be taken, as per Schedule 1 Paragraph 2 to the Act, as "references to the teacher in charge of the unit (whether known as the headteacher or not)."

2.46 Criteria for Statutory Assessment

The criteria for assessment used by the LEA will be the same as described earlier (section 2.18 following) for pupils in Birmingham maintained schools.

2.47 LEA Procedure for Requesting Statutory Assessment

The procedures described earlier (sections 2.18 - 2.32) should also be used for these pupils. This includes pupils referred under the 'Non-Routine ('Exceptional) Procedure'. The headteacher will, therefore, be responsible for requesting that the LEA carry out a statutory assessment. This will be done using the same form (Form 2: 'Request for Statutory Assessment - Initiation by Headteacher').

In circumstances where the pupil attends a school or 'unit' (e.g. PRU) but is still on the roll of a mainstream or special school, the headteacher of the latter will be responsible for making the request to the LEA. However, collaboration will always be necessary between the two 'schools' to ensure that as full a picture as possible is provided to the LEA.

Where a pupil is not on the roll of a mainstream or special school, the headteacher of the current provision should submit the LEA request form. This headteacher will need to liaise, as far as possible, with the headteacher of the pupil's previous school(s), to ensure that all relevant records of actions taken at School Action and School Action Plus are passed to the LEA. Where such

records do not exist, the present headteacher should complete Form 2 as far as possible, including any records of support at the school-based stages whilst the pupil is attending the present school.

In the event that the LEA's 'routine' procedure cannot be followed, any request from a headteacher may be discussed at a meeting of the LEA's Moderating Group. This will ensure that full consideration is given to all those cases thought to require statutory assessment.

Parental Requests

The LEA's procedure for children without statements is summarised on a flowchart - ("4. Request for Statutory Assessment - Referral by Parents") to be found in Appendix D to this document.

2.48 The LEA's Statutory Duty

Any request from parents will be taken seriously, and the LEA will take immediate action to investigate it. Under sections 328(2) and 329(1) of the Act, the parents of a child aged 2 years and over may ask the LEA to conduct a statutory assessment. The LEA must comply with such a request, provided:

.....such an assessment has not been made within the period of six months ending with the date on which the request is made, and it is necessary for the authority to make an assessment under that section (321).

[Act, sections 328 and 329]

Under Regulation 12(2), where such a request is made, the LEA must, within 6 weeks from the date of receipt of the letter, give notice to the child's parents of their decision.

- 2.49 Under section 331 of the Act, the parents of a child aged under 2 years may ask the LEA to conduct a statutory assessment. The LEA must comply with such a request, provided they are of the opinion that the child has (or probably has) special educational needs, and "it is necessary for the authority to determine the special educational provision which any learning difficulty he may have calls for." [Act 331(2)]

Where an assessment is carried out under this section, the LEA may do this "in such a manner as the authority consider appropriate." [Act, 331(3)] Although not under a legal obligation to do so, the LEA intend to respond to any such request within 6 weeks.

2.50 Procedure for dealing with requests of pre-school children

This section covers the referral of children, who are under the age of five years, who are not on the roll of a maintained school or nursery, and who do not currently have a statement. This includes children under the age of 2 years.

The LEA will write to the parents (letter SEN4) asking them for further information and comments. At the same time, the LEA will write to the Psychological Service (letter SEN6B), enclosing a copy of the parental request. The Principal Educational Psychologist will be asked to ensure that

the opinion of a psychologist is received within 4 weeks from the date of the parents' letter.

Where the child is receiving education from a recognised early education provider, then the LEA will write to the child's provider (letter SEN5A) informing him or her that the parents have made a request, and asking them to provide written evidence about the actions taken at Early Years Action and Early Years Action Plus. The provider will be asked to ensure that the reply is received by the LEA within 4 weeks from the date of the parents' letter.

On the basis of the professional advice and the further views of the parents, the LEA will write back to the parents within the statutory 6 weeks period, advising them of the LEA's decision (letter SEN8 if the request is turned down; letter SEN9 if the LEA decide to make an assessment).

2.51 Where it appears to the LEA that the parents' request reflects a significant degree of dissatisfaction or disagreement with the action taken at the early years stages, the request may be discussed at a meeting of the LEA's Moderating Group. In addition, where it appears to the Psychological Service that the case is a borderline one, a note can be made on the referral form for the papers to be passed to the Moderating Group.

2.52 **Procedure for dealing with requests of school-aged pupils**

This section covers requests made by parents on a child who does not have a statement. It covers school-aged pupils in any type of school, as well as pupils who do not attend a school.

2.53 Initially, the LEA will write to the parents (SEN4) , enclosing an information pack about assessment and advising them of the Parent Partnership Service. The letter will also, as described in the Code:

- investigate further the nature of their concern
- ascertain the degree of their involvement and agreement with the special educational provision which has been already been made for their child at school
- give them full details of the assessment process and the information set out at paragraphs 7:16 above [of the Code]

[Code 7:26]

A suitably modified letter (based on the SEN4) will be sent in any case where the pupil is not on the roll of any school or unit.

The parents will be offered the opportunity to attend a meeting with an LEA officer, should this be necessary to clarify their concerns.

- 2.54 The LEA will write to the child's headteacher (letter SEN5) informing him or her that the parents have made a request, and asking them to provide written evidence about the actions taken at School Action and School Action Plus. The headteacher will be asked to complete Form 2P and ensure that the reply is received by the LEA within 4 weeks from the date of the parents' letter.

Where the child is not on roll at any school or unit, the LEA will send this letter to the headteacher of the last school attended - provided this is one at which the child has been on roll within the preceding 18 months. If there is still no appropriate headteacher, the LEA will be unable to obtain a headteacher's views within the 6 weeks time-scale for writing to the parents with a decision on their request.

- 2.55 At the same time, the LEA will notify the Psychological Service, the designated medical officer, the social services department and any other bodies which might later be asked for advice (letter SEN6B to Psychological Service and letter SEN6A to others). A copy of the parental request will be attached to the LEA's letter. The recipient will be informed "of the fact that the request has been made and inform them what help they [the LEA] are likely to request" [Regulation 6(3)]. Where the pupil attends an ex-LEA maintained school, the local Psychological Service will also be circulated. If the parental request includes a request for residence of any kind, the LEA will also notify the area Principal Social Worker of the Child Advisory Social Work Service (CASWS).

Comments and/or advice will be requested, to be received by the LEA within 4 weeks of the date of the parents' letter.

- 2.56 On the basis of the professional advice and the further views of the parents, the LEA will write back to the parents within the statutory 6 weeks period, advising them of the LEA's decision (letter SEN8 if the request is turned down; letter SEN9 if the LEA decide to make an assessment).

Where no headteacher advice can be sought (because the pupil has not been on any school roll within the previous 18 months), the LEA will normally take the view that the child should attend some form of full-time or part-time provision before an adequate conclusion could be reached, as per paragraph 329(1)(c) of the Act, that "it is necessary for the authority to make an assessment". Nevertheless, as such a parental request will be exceptional, the LEA will need to give very careful consideration to it, based on the advice received.

- 2.57 Where no headteacher advice is possible, or where it appears to the LEA that the parents' request reflects a significant degree of dissatisfaction or

disagreement with the action taken in the school-based stages, the request may be discussed at a meeting of the LEA's Moderating Group.

2.58 Procedure for dealing with requests of statemented children

The LEA's procedure for children with statements is summarised on a flowchart ("5. Request for Statutory Re-assessment - Referral by Parents") to be found in Appendix D to this document.

This section covers requests made by parents under paragraph 328 of the Act. Thus, it covers all those children for whom a statement is maintained by the LEA.

Initially, the LEA will check when the last assessment was carried out. The LEA will only investigate the request provided, as stated in paragraph 329(1)(b) of the Act, where "no such assessment has been made within the period of six months ending with the date on which the request is made." If this does not apply the LEA will advise the parents accordingly. If this does apply, the LEA will write to the parents advising them of the LEA's decision to request a review in school, to which they will be invited. Any further comments by the parents will be invited at the same time. Where the child is not attending any school (e.g. because the child is being educated at home) the LEA will need to send a modified version of this letter.

- 2.59 Where the child attends a school or early education facility, the LEA will write to the child's headteacher or provider informing him or her that the parents have made a request. If one is not already planned, the headteacher/provider will be asked to convene an urgent review meeting with the parents. He or she should also invite the educational psychologist involved, plus any other professionals who seem relevant to the case in question. The review should be held in sufficient time for a review report to be sent to the LEA within 4 weeks of the date of the parents' request.

Copies of this letter will be sent, for information, to the Psychological Service, the designated medical officer, the social services department and any other bodies which might later be asked for advice. Where the parental request includes a request for residence of any kind, the LEA will also notify the area Principal Social Worker of the Child Advisory Social Work Service (CASWS).

- 2.60 Where the child is not attending any school, the LEA will initiate a review following the procedure, described in sections 6.22 - 6.30 following, for the review of a statement where a child does not attend school.
- 2.61 On the basis of the review report the LEA will write back to the parents within the statutory 6 weeks period, advising them of the LEA's decision (letter SEN8 if the request is turned down; letter SEN9 if the LEA decide to make an assessment).

2.62 Where it appears to the LEA that the parents' request reflects a significant degree of dissatisfaction or disagreement with the provision made by the school, the request may be discussed at a meeting of the LEA's Moderating Group.

2.63 **Refusal to Assess**

Where the LEA decide not to make an assessment, the Principal Assessment Officer will write to the parents (SEN8). As required by Reg. 12(2)(b) the parents will be advised of:

- the reasons for the decision;
- the availability of advice and information from the Parent Partnership Service;
- the availability to the parent of the LEA's dispute resolution arrangements;
- their right of appeal to the Tribunal against the decision not to assess;
- the time limit within which an appeal must be made to the Tribunal; and
- the fact that any dispute resolution arrangements cannot affect their right of appeal to the Tribunal.

2.64 **Parental request for a change of school named on the statement**

Under paragraph 8(1) of Schedule 27 of the Act the parents may request that the name of the school be changed on the existing statement. The procedure the LEA will follow is described in Chapter 6 'Amendment or Cessation of Statement', sections 6.5-6.7.

2.65 **Role of the Moderating Group**

The moderating group, set up by the Authority, may be asked to consider any parental request where it appears to the LEA that the parents' request reflects a significant degree of dissatisfaction or disagreement with the action taken in either the pre-school or school-based stages.

The case would then be discussed at a meeting of the Moderating Group, in order to help the LEA to reach a decision.